

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re:
City of Detroit, Michigan,
Debtor.

Chapter 9
Case No. 13-53846
Hon. Steven W. Rhodes

Order Denying Motion for Relief from Stay

This matter is before the Court on a “Motion for Relief from Automatic Stay and Ruling that Claim is not Subject to Reduction or Compromise in Bankruptcy,” filed by HRT Enterprises on May 27, 2014. (Dkt. #5070) HRT seeks relief from the automatic stay to proceed to trial on several claims it filed against the City under 42 U.S.C. § 1983. These claims involve allegations that the City has “taken” property from HRT without providing just compensation. In the motion, HRT also seeks a ruling from the Court that its claims “are not subject to reduction or compromise because they are based on a Constitutional claim for the taking of property without just compensation.” The City filed an objection and brief in opposition to the motion. (Dkt. #5277) The Court concludes that oral argument is not necessary to resolve the motion.

The Court concludes the motion should be denied because it fails to establish cause for the requested relief. *See* 11 U.S.C. § 362(d)(1). The Court has previously referred claims filed against the City under 42 U.S.C. § 1983 to mediation. *See* Order, Pursuant to Sections 105 and 502 of the Bankruptcy Code, Approving Alternative Dispute Resolution Procedures to Promote the Liquidation of Certain Prepetition Claims, ¶ 20 at 14. (Dkt. #2302) HRT fails to distinguish its claims from those covered by the ADR procedures or to articulate why the ADR procedures do not adequately protect HRT’s interests.

The Court further finds that this Motion is not the proper context to request a ruling that HRT's claims against the City cannot be reduced or compromised in bankruptcy. HRT raises this issue in its objection to the City's proposed plan of adjustment. *See* Joint Objection to Chapter 9 Plan by Creditors T&T Management, Inc., HRT Enterprises, and the John W. and Vivian M. Denis Trust Regarding Treatment of Claims for Taking of Private Property Without Just Compensation. (Dkt. #3412) The Court has identified this issue as one to be considered at a hearing scheduled for July 16, 2014. *See* Order Identifying Legal Issues, Establishing Supplemental Briefing Schedule and Setting Hearing Dates and Procedures, ¶ 3 at 1. (Dkt. #5235) Accordingly, the denial of the motion is without prejudice to the parties' rights to assert their respective positions on this issue at that time.

Not for Publication

Signed on June 17, 2014

/s/ Steven Rhodes
Steven Rhodes
United States Bankruptcy Judge